SUBMITTED RESOLUTIONS

SENATE RESOLUTION 340—EXPRESSING THE SENSE OF THE SENATE THAT LENDERS HOLDING MORTGAGES ON HOMES IN COMMUNITIES OF LOUISIANA DEVASTATED BY HURRICANES KATRINA AND RITA SHOULD EXTEND CURRENT MORTGAGE PAYMENT FORBEARANCE PERIODS AND NOT FORECLOSE ON PROPERTIES IN THOSE COMMUNITIES UNTIL SUCH TIME THAT CONGRESS CAN CONSIDER LEGISLATION TO PROVIDE RELIEF TO THOSE HOMEOWNERS

Ms. LANDRIEU submitted the following resolution; which was referred to the Committee on Banking, Housing, and Urban Affairs:

S. RES. 340

Whereas the Gulf Coast of the United States has experienced one of the worst hurricane seasons on record;

Whereas Hurricane Katrina and multiple levee breaks destroyed an estimated 205,330 homes in Louisiana;

Whereas 18,752 businesses in Louisiana, 41 percent of the overall number of businesses in the State, sustained catastrophic damage from Hurricane Katrina and Hurricane Rita;

Whereas according to the Bureau of Economic Analysis at the Department of Commerce, personal income has fallen more than 25 percent in Louisiana in the third quarter of 2005;

Whereas in the time since Hurricanes Katrina and Rita, the Small Business Administration has only approved 20 percent of disaster loan applications for homeowners in Louisiana and has a backlog of more than 101,400 applications for this assistance as of December 20, 2005;

Whereas of the 11,644 homeowner disaster loan applications that have been approved in Louisiana by the Small Business Administration, only 835 have been fully disbursed;

Whereas, in response to these circumstances, commercial banks, mortgage banks, credit unions, and other mortgage lenders instituted 90-day loan forbearance periods after Hurricane Katrina and did not require home owners in Louisiana to make mortgage payments until on or about December 1, 2005;

Whereas after the termination of the 90-day forbearance period, many home and business owners have received notice from their lenders that they face foreclosure unless they make a lump sum balloon payment in the amount of the mortgage payments previously subject to forbearance; and

Whereas foreclosure on homes and businesses in Louisiana will have a detrimental impact on the economy of the State, will deprive property owners of their equity at a time when they can least afford it, and will have a negative impact on lenders who will be holding properties that may not be readily saleable on the open market: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) Congress should consider legislation to provide relief to homeowners in Louisiana whose properties were devastated by Hurricanes Katrina and Rita; and

(2) commercial banks, mortgage banks, credit unions, and other mortgage lenders should extend mortgage payment forbearance to March 31, 2006, in order to allow Congress the time to consider such legislation.

Ms. LANDRIEU. Mr. President, right after Katrina hit the financial services industry responded with compassion to their customers in Louisiana. Every bank, credit union, mortgage broker, and other mortgage holders instituted a 90 day forbearance period during which they did not collect mortgage payments. They deserve to be commended for this policy. They gave peace of mind to the thousands of families who lost their homes to Katrina and Rita, or whose homes were damaged by the storms.

Many of these forbearance periods have now ended, most effective December 1st. I have heard from homeowners throughout the state who are now being told by their lenders that in addition to making December's mortgage payment, they now also have to come up with a lump sum payment for the payments they missed. A lot of these people were under the impression that their loans would be restructured to add the three months on to the end of the loan term. Instead, they are getting a bill for thousands of dollars.

Can you imagine what it must be like for a person in New Orleans or St. Bernard Parish to get this notice from their lender? Their home is gone. Their community has been wiped out. We have lost over 200,000 homes in Louisiana to these storms and more than 18,000 businesses have been destroyed. Personal income in Louisiana has fallen by more than 25 percent in the third quarter of 2005. And now these homeowners—in this kind of situation—face foreclosure.

People in Louisiana are hard working and want to pay what they owe. Most lenders have reported that even with the forbearance period, close to 80 percent of borrowers continued to make their mortgage payments. People who have called my office have said that they can make the monthly payment, but the balloon payment is out of reach and will be for some time.

I was hoping that Congress could pass legislation before we adjourned to establish a Louisiana Recovery Corporation that would bring some stability and guide the redevelopment of the state after these storms. It would create an entity that will give homeowners the opportunity to sell destroyed properties if they feel that it would be in their best interest. The bill that we were working on with the leaders of the Senate Banking Committee—Chairman SHELBY and Ranking Member SARBANES—as well as Congressman BAKER in the House of Representatives, still needed a lot of work. We simply were not going to have time to complete the bill before the holidays. It will be one of my top priorities when we return in the Second Session.

In the meantime, homeowners in Louisiana need more time before they can begin making mortgage payments. Today I am submitting a sense of the Senate Resolution calling on mortgage lenders to continue their forbearance periods through March 31, 2006. This will give the Congress more time to consider and develop legislation to restore peace of mind to our homeowners.

It is my hope that this resolution will prompt the Senate to make passing legislation to give our homeowners peace of mind a priority when we return next year.

SENATE RESOLUTION 341—COMMENDING DR. DOUGLAS HOLTZ-EAKIN FOR HIS DEDICATED, FAITHFUL, AND OUTSTANDING SERVICE TO HIS COUNTRY AND TO THE SENATE

Mr. GREGG (for himself, Mr. FRIST, Mr. CONRAD) submitted the following resolution; which was considered and agreed to:

S. RES. 341

Whereas Dr. Douglas Holtz-Eakin has served as the sixth Director of the Congressional Budget Office since February 4, 2003 and will end his service on December 29, 2005;

Whereas during his tenure as Director, he has continued to encourage the highest standards of analytical excellence within the staff of the Congressional Budget Office while maintaining the independent and nonpartisan character of the organization;

Whereas during his tenure as Director, he has expanded and improved the accessibility of the Congressional Budget Office's work products to the Congress and the public;

Whereas he has expanded and enhanced the agency's macroeconomic analyses of the range of negative and positive feedbacks on the economy and budget from fiscal policy changes; and

Whereas he has earned the respect and esteem of the United States Senate: Now, therefore, be it

Resolved, That the Senate of the United States commends Dr. Douglas Holtz-Eakin for his dedicated, faithful, and outstanding service to his country and to the Senate.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. OBAMA (for himself and Ms. MIKULSKI):

S. 2149. A bill to authorize resources to provide students with opportunities for summer learning through summer learning grants; to the Committee on Health, Education, Labor, and Pensions.

Mr. OBAMA. Mr. President, I rise today to introduce a bill—the ''STEP UP Act''—to establish grants for summer school enrichment programs to increase the academic skills of students in need.

According to the 2005 Nation's Report Card of Educational Progress, the gap in reading scores between fourth grade children in poverty and their more affluent peers did not decrease between 1998 and 2005. Fewer than half of the fourth graders eligible for free or reduced priced lunch are able to read at even the basic level—a level attained by more than three-quarters of wealthier students. This data confirms that too many of our children are not attaining skills at levels that will lead to success, and too often, it is the children most in need who are left behind by the educational system.

Teachers understand that students return to school in the fall at levels below their performance of the previous spring. Educators know this as summer learning loss. Research has shown that students, on average, lose more than one month of reading skills and two months of math skills over the summer. That is the average.

But the impact of summer learning loss is greatest for children living in poverty, children with learning disabilities, and children who do not speak English at home. Achievement levels for such children often plummet during the summer, so that that the reading skills of disadvantaged students can fall more that three months behind the scores of their more affluent peers. The summer learning losses for children in poverty accumulate over the elementary school years, so these students end up falling further and further behind in school.

Several programs have been successful in countering summer learning loss. The BELL programs and the Teach Baltimore Summer Academy provide evidence that students can achieve months of progress, rather than months of decline, when they participate in structured enrichment and education programs for several weeks during the summer. These programs are successful but reach too few of the students who need them.

The bill I am introducing today establishes a grant program for states to support summer learning in selected local districts. These grants would be used to help students in the early elementary grades who are living in poverty, by supporting their participation in six weeks of summer school. These summer opportunities could be offered by a variety of providers, including the public schools, but also by other community organizations that have shown success in providing educational enrichment, such as youth development organizations, nonprofits, and summer enrichment camps. These summer programs would be aligned with the school year curriculum to increase the reading and math skills of students in need and to provide them with learning opportunities to avoid a path that might otherwise lead to failure in school—a path that too often ends, years later, with these students dropping out of the educational system.

The achievement gap in education begins in the early grades and remains a burden for too many throughout their time in school. It is becoming increasingly clear that much of this early difference can be combated by structured summer learning opportunities. That is the purpose of this bill, and I hope my colleagues will support this important legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2149

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Summer Term Education Programs for Upward Performance Act of 2005'' or the ''STEP UP Act of 2005''.

SEC. 2. FINDINGS.

Congress finds the following:

(1) All students experience learning losses when they do not engage in educational activities during the summer.

(2) Students on average lose more than 1 month's worth of reading skills, and 2 months or more in mathematics facts and skills, during the summer.

(3) The impact of summer learning loss is greatest for children living in poverty, for children with learning disabilities, and for children who do not speak English at home.

(4) While middle-class children's test scores plateau or even rise during the summer months, scores plummet for children living in poverty. Disparities grow, so that reading scores of disadvantaged students can fall more than 3 months behind the scores of their middle-class peers.

(5) Summer learning losses by children living in poverty accumulate over the elementary school years, so that their achievement scores fall further and further behind the scores of their more advantaged peers as the children progress through school.

(6) This summer slide is costly for American education. Analysis by Professor Harris Cooper and his colleagues finds that 2 months of the school year are lost: 1 month spent in reteaching and 1 month spent not providing new instruction.

(7) Analysis of summer learning programs has demonstrated their effectiveness. In the BELL programs in Boston, New York, and Washington, DC, students gained several months' worth of reading and mathematics skills in 6 weeks, with a majority of those students moving to a higher performance category, as assessed by standardized mathematics and reading tests. In the Center for Summer Learning's Teach Baltimore Summer Academy, randomized studies show that students who regularly attended the program for not less than 2 summers gained advantages of 70 to 80 percent of 1 full grade level in reading over control-group peers who did not attend summer school.

(8) Summer learning programs are proven to remedy, reinforce, and accelerate learning, and can serve to close the achievement gap in education.

SEC. 3. PURPOSE.

The purpose of this Act is to create opportunities for summer learning by providing summer learning grants to eligible students, in order to—

(1) provide the students with access to summer learning;

(2) facilitate the enrollment of students in elementary schools or youth development organizations during the summer;

(3) promote collaboration between teachers and youth development professionals in order to bridge gaps between schools and youth programs; and

(4) encourage teachers to try new techniques, acquire new skills, and mentor new colleagues.

SEC. 4. DEFINITIONS.

In this Act:

(1) EDUCATIONAL SERVICE AGENCY.—The term ''educational service agency'' has the meaning given the term in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

(2) ELIGIBLE ENTITY.—The term ''eligible entity'' means an entity that—

(A) desires to participate in a summer learning grant program under this Act by providing summer learning opportunities described in section 6(d)(1)(B) to eligible students; and

(B) is—

(i) a local educational agency;

(ii) a for-profit educational provider, nonprofit organization, or summer enrichment camp, that has been approved by the State educational agency to provide the summer learning opportunity described in section 6(d)(1)(B), including an entity that is in good standing that has been previously approved by a State educational agency to provide supplemental educational services; or

(iii) a consortium consisting of a local educational agency and 1 or more of the following entities:

(I) Another local educational agency.

(II) A community–based youth development organization with a demonstrated record of effectiveness in helping students learn.

(III) An institution of higher education.

(IV) An educational service agency.

(V) A for-profit educational provider described in clause (ii).

(VI) A nonprofit organization described in clause (ii).

(VII) A summer enrichment camp described in clause (ii)

(3) ELIGIBLE STUDENT.—The term ''eligible student'' means a student who—

(A) is eligible for a free lunch under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.);

(B) is served by a local educational agency identified by the State educational agency in the application described in section 5(b); or

(C)(i) in the case of a summer learning grant program authorized under this Act for fiscal year 2006, 2007, or 2008, is eligible to enroll in any of the grades kindergarten through grade 3 for the school year following participation in the program; or

(ii) in the case of a summer learning grant program authorized under this Act for fiscal year 2009 or 2010, is eligible to enroll in any of the grades kindergarten through grade 5 for the school year following participation in the program.

(4) INSTITUTION OF HIGHER EDUCATION.—The term ''institution of higher education'' has the meaning given the term in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)).

(5) LOCAL EDUCATIONAL AGENCY.—The term ''local educational agency'' has the meaning given the term in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

(6) SECRETARY.—The term ''Secretary'' means the Secretary of Education.

(7) STATE.—The term ''State'' means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

(8) STATE EDUCATIONAL AGENCY.—The term ''State educational agency'' has the meaning given the term in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

SEC. 5. DEMONSTRATION GRANT PROGRAM.

(a) PROGRAM AUTHORIZED.—

(1) IN GENERAL.—From the funds appropriated under section 8 for a fiscal year, the Secretary shall carry out a demonstration grant program in which the Secretary awards grants, on a competitive basis, to State educational agencies to enable the

State educational agencies to pay the Federal share of summer learning grants for eligible students.

(2) NUMBER OF GRANTS.—For each fiscal year, the Secretary shall award not more than 5 grants under this section.

(b) APPLICATION.—A State educational agency that desires to receive a grant under this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require. Such application shall identify the areas in the State where the summer learning grant program will be offered and the local educational agencies that serve such areas.

(c) AWARD BASIS.—In awarding grants under this section, the Secretary shall take into consideration an equitable geographic distribution of the grants.

SEC. 6. SUMMER LEARNING GRANTS.

(a) USE OF GRANTS FOR SUMMER LEARNING GRANTS.—

(1) IN GENERAL.—Each State educational agency that receives a grant under section 5 for a fiscal year shall use the grant funds to provide summer learning grants for the fiscal year to eligible students in the State who desire to attend a summer learning opportunity offered by an eligible entity that enters into an agreement with the State educational agency under subsection (d)(1).

(2) AMOUNT; FEDERAL AND NON-FEDERAL SHARES.—

(A) AMOUNT.—The amount of a summer learning grant provided under this Act shall be—

(i) for each of the fiscal years 2006 through 2009, $1,600; and

(ii) for fiscal year 2010, $1,800.

(B) FEDERAL SHARE.—The Federal share of each summer learning grant shall be not more than 50 percent of the amount of the summer learning grant determined under subparagraph (A).

(C) NON-FEDERAL SHARE.—The non-Federal share of each summer learning grant shall be not less than 50 percent of the amount of the summer learning grant determined under subparagraph (A), and shall be provided from non-Federal sources, such as State or local sources.

(b) DESIGNATION OF SUMMER SCHOLARS.—Eligible students who receive summer learning grants under this Act shall be known as ''summer scholars''.

(c) SELECTION OF SUMMER LEARNING OPPORTUNITY.—

(1) DISSEMINATION OF INFORMATION.—A State educational agency that receives a grant under section 5 shall disseminate information about summer learning opportunities and summer learning grants to the families of eligible students in the State.

(2) APPLICATION.—The parents of an eligible student who are interested in having their child participate in a summer learning opportunity and receive a summer learning grant shall submit an application to the State educational agency that includes a ranked list of preferred summer learning opportunities.

(3) PROCESS.—A State educational agency that receives an application under paragraph (2) shall—

(A) process such application;

(B) determine whether the eligible student shall receive a summer learning grant;

(C) coordinate the assignment of eligible students receiving summer learning grants with summer learning opportunities; and

(D) if demand for a summer learning opportunity exceeds capacity—

(i) in a case where information on the school readiness (based on school records and assessments of student achievement) of the eligible students is available, give priority for the summer learning opportunity to eligible students with low levels of school readiness; or

(ii) in a case where such information on school readiness is not available, rely on randomization to assign the eligible students.

(4) FLEXIBILITY.—A State educational agency may assign a summer scholar to a summer learning opportunity program that is offered in an area served by a local educational agency that is not the local educational agency serving the area where such scholar resides.

(5) REQUIREMENT OF ACCEPTANCE.—An eligible entity shall accept, enroll, and provide the summer learning opportunity of such entity to, any summer scholar assigned to such summer learning opportunity by a State educational agency pursuant to this subsection.

(d) AGREEMENT WITH ELIGIBLE ENTITY.—

(1) IN GENERAL.—A State educational agency shall enter into an agreement with the eligible entity offering a summer learning opportunity, under which—

(A) the State educational agency shall agree to make payments to the eligible entity, in accordance with paragraph (2), for a summer scholar; and

(B) the eligible entity shall agree to provide the summer scholar with a summer learning opportunity that—

(i) provides a total of not less than the equivalent of 30 full days of instruction (or not less than the equivalent of 25 full days of instruction, if the equivalent of an additional 5 days is devoted to field trips or other enrichment opportunities) to the summer scholar;

(ii) employs small-group, research-based educational programs, materials, curricula, and practices;

(iii) provides a curriculum that—

(I) emphasizes reading and mathematics;

(II) is primarily designed to increase the literacy and numeracy of the summer scholar; and

(III) is aligned with the standards and goals of the school year curriculum of the local educational agency serving the summer scholar;

(iv) applies assessments to measure the skills taught in the summer learning opportunity and disaggregates the results of the assessments for summer scholars by race and ethnicity, economic status, limited English proficiency status, and disability category, in order to determine the opportunity's impact on each subgroup of summer scholars;

(v) collects daily attendance data on each summer scholar; and

(vi) meets all applicable Federal, State, and local civil rights laws.

(2) AMOUNT OF PAYMENT.—

(A) IN GENERAL.—Except as provided in subparagraph (B), a State educational agency shall make a payment to an eligible entity for a summer scholar in the amount determined under subsection (a)(2)(A).

(B) ADJUSTMENT.—In the case in which a summer scholar does not attend the full summer learning opportunity, the State educational agency shall reduce the amount provided to the eligible entity pursuant to subparagraph (A) by a percentage that is equal to the percentage of the summer learning opportunity not attended by such scholar.

(e) USE OF SCHOOL FACILITIES.—State educational agencies are encouraged to require local educational agencies in the State to allow eligible entities, in offering summer learning opportunities, to make use of school facilities in schools served by such local educational agencies at reasonable or no cost.

(f) ACCESS OF RECORDS.—An eligible entity offering a summer learning opportunity under this Act is eligible to receive, upon request, the school records and any previous supplemental educational services assessment records of a summer scholar served by such entity.

(g) ADMINISTRATIVE COSTS.—A State educational agency or eligible entity receiving funding under this Act may use not more than 5 percent of such funding for administrative costs associated with carrying out this Act.

SEC. 7. EVALUATIONS; REPORT; WEBSITE.

(a) EVALUATION AND ASSESSMENT.—For each year that an eligible entity enters into an agreement under section 6(d), the eligible entity shall prepare and submit to the Secretary a report on the activities and outcomes of each summer learning opportunity that enrolled a summer scholar, including—

(1) information on the design of the summer learning opportunity;

(2) the alignment of the summer learning opportunity with State standards; and

(3) data from assessments of student mathematics and reading skills for the summer scholars and on the attendance of the scholars, disaggregated by the subgroups described in section 6(d)(1)(B)(iv).

(b) REPORT.—For each year funds are appropriated under section 8 for this Act, the Secretary shall prepare and submit a report to Congress on the summer learning grant programs, including the effectiveness of the summer learning opportunities in improving student achievement.

(c) SUMMER LEARNING GRANTS WEBSITE.—The Secretary shall make accessible, on the Department of Education website, information for parents and school personnel on successful programs and curricula, and best practices, for summer learning opportunities.

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this Act $100,000,000 for fiscal year 2006 and such sums as may be necessary for each of the fiscal years 2007 through 2010.

By Mr. WYDEN (for himself and Mr. SMITH):

S. 2150. A bill to direct the Secretary of the Interior to convey certain Bureau of Land Management Land to the City of Eugene, Oregon; to the Committee on Energy and Natural Resources.

Mr. WYDEN. Mr. President, today I introduce, with my friend and colleague from Oregon, Senator SMITH, a small bill that should pack a big score for ecological education in the City of Eugene. This bill authorizes the transfer of 12 acres from the Bureau of Land Management (BLM) to the City of Eugene on which the City of Eugene plans to construct the West Eugene Environmental Education Center (WEEEC). The WEEEC is a planned campus that will eventually hold laboratories, greenhouses, a reference library, and public gathering places including an exhibit hall, auditorium, and three classrooms. Transfer of this acreage by this bill is the first step towards making the promise of this educational center a reality.

The WEEEC and this bill are supported by the West Eugene Wetland Partnership (Partnership). The Partnership is made up of the BLM, Eugene School Districts, Northwest Youth Corp, and the Willamette Resources and Educational Network (WREN) which was formed to assist in planning, funding, building, and operating portions of this education center. This bill

is also supported by the Oregon and California Counties (O&C counties) who originally had issue with the land transfer because they opposed loss of the 12 acres from the BLM land base. They are now in support of this bill because the City of Eugene has stepped up to the plate and is transferring land they currently own to the BLM to keep the public land roles consistent.

The WEEEC will be the culmination of over a decade of work on the part of local folks to preserve the West Eugene Wetlands. I urge its swift passage.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2150

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Eugene Land Conveyance Act''.

SEC. 2. DEFINITIONS.

In this Act:

(1) CITY.—The term ''City'' means the city of Eugene, Oregon.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

SEC. 3. CONVEYANCE TO THE CITY OF EUGENE, OREGON.

(a) IN GENERAL.—Not later than 60 days after the date of enactment of this Act, the Secretary shall convey to the City, without consideration and subject to all valid existing rights, all right, title, and interest of the United States in and to the land described in subsection (b)(1) for the purposes of—

(1) establishing a wildlife viewing area; and

(2) the construction and operation of an environmental education center.

(b) DESCRIPTION OF LAND.—

(1) IN GENERAL.—The land referred to in subsection (a) is the parcel of approximately 12 acres of land under the administrative jurisdiction of the Bureau of Land Management in Lane County, Oregon, as depicted on the map entitled ''Red House Property'' and dated April 11, 2005.

(2) SURVEY.—

(A) IN GENERAL.—The exact acreage and legal description of the land described in paragraph (1) shall be determined by a survey acceptable to the Secretary, including an existing survey.

(B) COST.—If the Secretary determines that a new survey of the land is required, the City shall be responsible for paying the cost of the survey.

(c) REVERSION.—

(1) IN GENERAL.—If the Secretary determines that the land conveyed under subsection (a) is not being used for the purposes described in that subsection—

(A) all right, title, and interest in and to the land (including any improvements to the land) shall revert to the United States; and

(B) the United States shall have the right of immediate entry to the land.

(2) HEARING.—Any determination of the Secretary under paragraph (1) shall be made on the record after an opportunity for a hearing.

(d) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions for the conveyance under subsection (a) as the Secretary determines to be appropriate to protect the interests of the United States.

By Mr. DURBIN (for himself and Mr. OBAMA):

S. 2151. A bill to authorize full funding of payments for eligible federally connected children under title VIII of the Elementary and Secondary Education Act of 1965 by fiscal year 2011; to the Committee on Health, Education, Labor, and Pensions.

Mr. DURBIN. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2151

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Fair Share for Military Children in Public Schools Act''.

SEC. 2. PAYMENTS FOR ELIGIBLE FEDERALLY CONNECTED CHILDREN UNDER TITLE VIII OF THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965.

Section 8014(b) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7714(b)) is amended to read as follows:

''(b) BASIC PAYMENTS; PAYMENTS FOR HEAVILY IMPACTED LOCAL EDUCATIONAL AGENCIES.—For the purpose of making payments under section 8003(b), there are authorized to be appropriated—

''(1) for fiscal year 2007, such sums as may be necessary to pay to each local educational agency for such fiscal year 70.4 percent of the full amount computed for such agency for such fiscal year under paragraphs (1) and (2) of section 8003(b);

''(2) for fiscal year 2008, such sums as may be necessary to pay to each local educational agency for such fiscal year 77.8 percent of the full amount computed for such agency for such fiscal year under paragraphs (1) and (2) of section 8003(b);

''(3) for fiscal year 2009, such sums as may be necessary to pay to each local educational agency for such fiscal year 85.2 percent of the full amount computed for such agency for such fiscal year under paragraphs (1) and (2) of section 8003(b);

''(4) for fiscal year 2010, such sums as may be necessary to pay to each local educational agency for such fiscal year 92.6 percent of the full amount computed for such agency for such fiscal year under paragraphs (1) and (2) of section 8003(b); and

''(5) for fiscal year 2011, such sums as may be necessary to pay to each local educational agency for such fiscal year the full amount computed for such agency for such fiscal year under paragraphs (1) and (2) of section 8003(b).''.

Mr. ENZI:

S. 2152. A bill to promote simplification and fairness in the administration and collection of sales and use taxes; to the Committee on Finance.

Mr. ENZI. Mr. President, I rise today to introduce the Sales Tax Fairness and Simplification Act, a bill that will level the playing field for all retailers—in-store, catalog, and online—so each retailer has the same sales tax collection responsibility. All retail sales should be treated equally. The bill will also help States begin to recover from years of budgetary shortfalls.

This bill is not a disguised attempt to increase taxes or put a new tax on the Internet. Consumers are already supposed to pay sales and use taxes in most States for purchases made over the phone, by mail, or via the Internet. Unfortunately, most consumers are unaware they are required to pay this use tax on purchases the retailer does not choose to collect sales tax on at the time of purchase.

That means consumers who buy products online are required to keep track of their purchases and then pay the outstanding use tax obligation on their State tax forms. This has proven to be unrealistic, but what is real is most people do not know this or do not comply with the requirement. As such, States are losing billions of dollars in annual revenue. This legislation will help both consumers and States by reducing the burden on consumers and providing a mechanism that will allow States to systematically and fairly collect the taxes already owed to them.

This bill is not about new taxes. Simply put, if Congress continues to allow remote sales taxes to go uncollected and electronic commerce continues to grow as predicted, other taxes—such as income or property taxes—will have to be increased to offset the lost revenue. I want to avoid that. That is why we need to implement a plan that will allow States to generate revenue using mechanisms already approved by their local leaders.

This bill is about economic growth. Sales and use taxes provide critical revenue to pay for our schools, our police officers, firefighters, road construction, and more. It will bring more money—money that is already owed—into rural areas that are struggling economically. It will also help businesses comply with the complicated State sales tax systems. That means the business resources that have historically been spent on tax compliance could be used, among other things, to hire new people and buy new equipment.

This bill is about tax simplification. As the Supreme Court identified in the Quill versus North Dakota decision in 1992, the complicated State and local sales tax systems across this country have created an undue burden on sellers. The Quill decision stated that a multitude of complicated and diverse State sales tax rules made it too onerous to require retailers to collect sales taxes unless they had a physical presence in the State of the buyer. Local brick-and-mortar retailers collect sales taxes, while many online and catalog retailers are exempt from collecting the same taxes. This is not only fundamentally unfair to Main Street retailers, but it is costing States and localities billions in lost revenue.

The bill will help relieve this burden by requiring States to meet the simplification standards outlined in the Streamlined Sales and Use Tax Agreement. Working with the business community, the States developed the Agreement to harmonize State sales tax rules, bring uniformity to definitions of items in the sales tax base, significantly reduce the paperwork burden

on retailers, and incorporate new technology to modernize many administrative procedures. This unprecedented Agreement will increase our Nation's economic efficiency and facilitate the growth of commerce by dramatically reducing red-tape and administrative burdens on all businesses and consumers. However, most importantly, the Agreement removes the liability for collection errors from the retailer and places it with the State. This historic Agreement was approved by 34 States and the District of Columbia on November 12, 2002.

The States have made tremendous progress in changing their State tax laws to become compliant with the Agreement. Already, 19 States have enacted legislation to change their tax laws and implement the requirements of the Agreement. On October 3, 2005, the Streamlined Sales and Use Tax Agreement became effective.

This bill requires States to implement and maintain these simplification measures before they can require any seller to collect and remit sales tax. The Streamlined Sales and Use Tax Agreement includes dramatic simplification in almost every aspect of sales and use tax collection and administration, especially for the sellers who sell their products in more than one State. Areas of simplification include exemption processing, uniform definitions, State level administration of local taxes, a reduced number of sales tax rates, determining the appropriate tax rate, and reduced audit burdens for sellers using the State-certified technology.

While the States have made great progress, the Quill decision held that allowing States to require collection is an issue that, ''Congress may be better qualified to resolve, and one that it has the ultimate power to resolve.'' The States have acted. It is now time for Congress to provide States that enact the Streamlined Sales and Use Tax Agreement with the authority to require remote retailers to collect sales taxes just as Main Street retailers do today.

Congress needs to ''level the playing field'' for all retailers—in-store, catalog, and online—so each has the same sales tax collection responsibility. All retail sales should be treated equally. I believe Congressional action is needed to provide States that implement the Streamlined Sales and Use Tax Agreement with the authority to collect sales and use taxes from remote retailers. Adoption of the Agreement and Congressional authorization will provide a level playing field for brick and mortar and remote retailers.

Senator BYRON DORGAN of North Dakota and I have worked tirelessly to assist sellers and State and local governments to find true simplification in almost every aspect of sales and use tax collection and administration. I want to thank Senator DORGAN for working with me on this policy issue for so many years. We have been successful in moving this issue forward from discussing it at the Federal level with Members of Congress to the drafting of the Streamlined Sales and Use Tax Agreement to approving the Governing Board this year to push forward with implementation.

For the past eleven months, Senator DORGAN and I have worked with all interested parties to try to find a mutually agreeable legislative package to introduce this year. Many hours have been dedicated in trying to find the right solution to address all concerns. I appreciate everyone's hard work on this piece of legislation and believe it is time to introduce the bill before the end of the year.

Senator DORGAN and I will be introducing two separate bills this year, but will continue to work with each other and all interested parties to find compromise on the outstanding policy issues of concern to the stakeholders. Some of the issues that will be further discussed include, but are not limited to, modifications to the small business exception language, inclusion of tribal governments language, and modifications to the language about transactional taxes on telecommunications services. Bill introduction does not stop us from negotiating and working together to improve the final product that should be enacted into public law. I look forward to working with Senator DORGAN and all interested parties to produce a compromise bill in 2006 that addresses all concerns raised over the past year.

The Sales Tax Fairness and Simplification Act provides States that implement the Streamlined Sales and Use Tax Agreement with the authority to collect sales or use taxes equally from all retailers. Adoption of the Agreement and Congressional authorization will provide a level playing field for brick and mortar and remote retailers.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2152

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Sales Tax Fairness and Simplification Act''.

SEC. 2. CONSENT OF CONGRESS.

The Congress consents to the Streamlined Sales and Use Tax Agreement.

SEC. 3. SENSE OF THE CONGRESS.

(a) SALES AND USE TAX SYSTEM.—It is the sense of the Congress that the sales and use tax system established by the Streamlined Sales and Use Tax Agreement, to the extent that it meets the minimum simplification requirements of section 6, provides sufficient simplification and uniformity to warrant Federal authorization to Member States that are parties to the Agreement to require remote sellers, subject to the conditions provided in this Act, to collect and remit the sales and use taxes of such Member States and of local taxing jurisdictions of such Member States.

(b) PURPOSE.—The purpose of this Act is to—

(1) effectuate the limited authority granted to Member States under the Streamlined Sales and Use Tax Agreement; and

(2) not grant additional authority unrelated to the accomplishment of the purpose described in paragraph (1).

SEC. 4. AUTHORIZATION TO REQUIRE COLLECTION OF SALES AND USE TAXES.

(a) GRANT OF AUTHORITY.—

(1) IN GENERAL.—Each Member State under the Streamlined Sales and Use Tax Agreement is authorized, subject to the requirements of this section, to require all sellers not qualifying for the small business exception provided under subsection (d) to collect and remit sales and use taxes with respect to remote sales sourced to that Member State under the Agreement.

(2) REQUIREMENTS FOR AUTHORITY.—The authorization provided under paragraph (1) shall be granted once all of the following have occurred:

(A) 10 States comprising at least 20 percent of the total population of all States imposing a sales tax, as determined by the 2000 Federal census, have petitioned for membership and have become Member States under the Agreement.

(B) The following necessary operational aspects of the Agreement have been implemented by the Governing Board:

(i) Provider and system certification.

(ii) Setting of monetary allowance by contract with providers.

(iii) Implementation of an on-line multistate registration system.

(iv) Adoption of a standard form for claiming exemptions electronically.

(v) Establishment of advisory councils.

(vi) Promulgation of rules and procedures for dispute resolution.

(vii) Promulgation of rules and procedures for audits.

(viii) Provisions for funding and staffing the Governing Board.

(C) Each Member State has met the requirements to provide and maintain the databases and the taxability matrix described in the Agreement, pursuant to requirements of the Governing Board.

(3) LIMITATION OF AUTHORITY.—The authorization provided under paragraph (1)—

(A) shall be granted notwithstanding any other provision of law; and

(B) is dependent upon the Agreement, as amended, meeting the minimum simplification requirements of section 6.

(b) TERMINATION OF AUTHORITY.—

(1) IN GENERAL.—The authorization provided under subsection (a) shall terminate for all States if—

(A) the requirements contained in subsection (a) cease to be satisfied; or

(B) any amendment adopted to the Agreement after the date of enactment of this Act is not within the scope of the administration of sales and use taxes or taxes on telecommunications services by the Member States.

(2) LOSS OF MEMBER STATE STATUS.—The authorization provided under subsection (a) shall terminate for a Member State, if such Member State no longer meets the requirements for Member State status under the terms of the Agreement.

(c) DETERMINATION OF STATUS.—

(1) IN GENERAL.—The Governing Board shall determine if Member States are in compliance with the requirements of subsections (a) and (b).

(2) COMPLIANCE DETERMINATION.—Upon the determination of the Governing Board that all the requirements of subsection (a) have been satisfied, the authority of each Member

State to require a seller to collect and remit sales and use taxes shall commence on the first day of a calendar quarter at least 6 months after the date the Governing Board makes its determination.

(d) SMALL BUSINESS EXCEPTION.—No seller shall be subject to a requirement of any State to collect and remit sales and use taxes with respect to a remote sale if—

(1) the seller and its affiliates collectively had gross remote taxable sales nationwide of less than $5,000,000 in the calendar year preceding the date of such sale; or

(2) the seller and its affiliates collectively meet the $5,000,000 threshold of this subsection but the seller has less than $100,000 in gross remote taxable sales nationwide.

SEC. 5. DETERMINATIONS BY GOVERNING BOARD AND JUDICIAL REVIEW OF SUCH DETERMINATIONS.

(a) PETITION.—At any time after the Governing Board has made the determination required under section 4(c)(2), any person who may be affected by the Agreement may petition the Governing Board for a determination on any issue relating to the implementation of the Agreement.

(b) REVIEW IN COURT OF FEDERAL CLAIMS.—Any person who submits a petition under subsection (a) may bring an action against the Governing Board in the United States Court of Federal Claims for judicial review of the action of the Governing Board on that petition if—

(1) the petition relates to an issue of whether—

(A) a Member State has satisfied or continues to satisfy the requirements for Member State status under the Agreement;

(B) the Governing Board has performed a nondiscretionary duty of the Governing Board under the Agreement;

(C) the Agreement continues to satisfy the minimum simplification requirements set forth in section 6; or

(D) any other requirement of section 4 has been satisfied; and

(2) the petition is denied by the Governing Board in whole or in part with respect to that issue, or the Governing Board fails to act on the petition with respect to that issue not later than 6 months after the date on which the petition is submitted.

(c) TIMING OF ACTION FOR REVIEW.—An action for review under this section shall be initiated not later than 60 days after the denial of the petition by the Governing Board, or, if the Governing Board failed to act on the petition, not later than 60 days after the end of the 6-month period beginning on the day after the date on which the petition was submitted.

(d) STANDARD OF REVIEW.—

(1) IN GENERAL.—In any action for review under this section, the court shall set aside the actions, findings, and conclusions of the Governing Board found to be arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.

(2) REMAND.—If the court sets aside any action, finding, or conclusion of the Governing Board under paragraph (1), the court shall remand the case to the Governing Board for further action consistent with the decision of the court.

(e) JURISDICTION.—

(1) GENERALLY.—Chapter 91 of title 28, United States Code, is amended by adding at the end the following:

''§ 1510. Jurisdiction regarding the Streamlined Sales and Use Tax Agreement

''The United States Court of Federal Claims shall have exclusive jurisdiction over actions for judicial review of determinations of the Governing Board of the Streamlined Sales and Use Tax Agreement under the terms and conditions provided in section 5 of the Sales Tax Fairness and Simplification Act.''.

(2) CONFORMING AMENDMENT TO TABLE OF SECTIONS.—The table of sections at the beginning of chapter 91 of title 28, United States Code, is amended by adding at the end the following new item:

''1510. Jurisdiction regarding the streamlined sales and use tax agreement.''.

SEC. 6. MINIMUM SIMPLIFICATION REQUIREMENTS.

(a) IN GENERAL.—The minimum simplification requirements for the Agreement, which shall relate to the conduct of Member States under the Agreement and to the administration and supervision of such conduct, are as follows:

(1) A centralized, one-stop, multistate registration system that a seller may elect to use to register with the Member States, provided a seller may also elect to register directly with a Member State, and further provided that privacy and confidentiality controls shall be placed on the multistate registration system so that it may not be used for any purpose other than the administration of sales and use taxes. Furthermore, no taxing authority within a Member State or a Member State that has withdrawn or been expelled from the Agreement may use registration with the centralized registration system for the purpose of, or as a factor in determining, whether a seller has a nexus with that Member State for any tax at any time.

(2) Uniform definitions of products and product-based exemptions from which a Member State may choose its individual tax base, provided, however, that all local jurisdictions in that Member State shall have a common tax base identical to the State tax base of that Member State. A Member State may enact other product-based exemptions without restriction if the Agreement does not have a definition for the product or for a term that includes the product. A Member State shall relax the good faith requirement for acceptance of exemption certificates in accordance with section 317 of the Agreement, as amended through the date of enactment of this Act.

(3) Uniform rules for sourcing and attributing transactions to particular taxing jurisdictions.

(4) Uniform procedures for the certification of service providers and software on which a seller may elect to rely in order to determine Member State sales and use tax rates and taxability.

(5) Uniform rules for bad debts and rounding.

(6) Uniform requirements for tax returns and remittances.

(7) Consistent electronic filing and remittance methods.

(8) Single, State-level administration of all Member State and local sales and use taxes, including a requirement for a State-level filing of tax returns in each Member State.

(9) A single sales and use tax rate per taxing jurisdiction, except that a State may impose a single additional rate, which may be zero, on food, food ingredients, and drugs, provided that this limitation does not apply to the items identified in section 308 C of the Agreement, as amended through the date of enactment of this Act.

(10) A Member State shall eliminate caps and thresholds on the application of sales and use tax rates and exemptions based on value, provided that this limitation does not apply to the items identified in section 308 C of the Agreement, as amended through the date of enactment of this Act.

(11) A provision requiring each Member State to complete a taxability matrix, as adopted by the Governing Board. The matrix shall include information regarding terms defined by the Agreement in the Library of Definitions. The matrix shall also include, pursuant to the requirements of the Governing Board, information on use, entity, and product based exemptions.

(12) A provision requiring that each Member State relieves a seller or service provider from liability to that Member State and local jurisdiction for collection of the incorrect amount of sales or use tax, and relieves the purchaser from penalties stemming from such liability, provided that collection of the improper amount is the result of relying on information provided by that Member State regarding tax rates, boundaries, or taxing jurisdiction assignments, or in the taxability matrix regarding terms defined by the Agreement in the Library of Definitions.

(13) Audit procedures for sellers, including an option under which a seller not qualifying for the small business exception in section 4(d) may request, by notifying the Governing Board, to be subject to a single audit on behalf of all Member States for sales and use taxes (other than use taxes on goods and services purchased for the consumption of the seller). The Governing Board, in its discretion, shall authorize such a single audit.

(14) As of the day that authority to require collection commences under section 4, each Member State shall provide reasonable compensation for expenses incurred by a seller directly in administering, collecting, and remitting sales and use taxes (other than use taxes on goods and services purchased for the consumption of the seller) to that Member State. Such compensation may vary in each Member State depending on the complexity of the sales and use tax laws in that Member State and may vary by the characteristics of sellers in order to reflect differences in collection costs. Such compensation may be provided to a seller or a third party service provider whom a seller has contracted with to perform all the sales and use tax responsibilities of a seller.

(15) Appropriate protections for consumer privacy.

(16) Governance procedures and mechanisms to ensure timely, consistent, and uniform implementation and adherence to the principles of the streamlined system and the terms of the Agreement.

(17) Each Member State shall apply the simplification requirements of the Agreement to taxes on telecommunications services, except as provided herein. This requirement is applicable to Member States as of July 1, 2008, except that sales and use taxes on telecommunications services shall be subject to the Agreement and the authority granted to the Member States when the requirements of section 4(a) are met. On or after July 1, 2008, for those Member States which meet the requirements of this paragraph, the authority granted such Member States under section 4 may be exercised by such Member States, pursuant to the terms of section 4 and section 5, with respect to taxes on telecommunications services other than sales and use taxes on such services. The following are exceptions to the requirement established under this paragraph:

(A) The requirement for one uniform return shall not apply, provided, however, there shall be one uniform return for each type of tax on telecommunications services within a State.

(B) The requirements for rate simplification are modified to require that each taxing jurisdiction shall have only one rate for each type of tax on telecommunications services.

(C) The requirements for tax base uniformity in section 302 of the Agreement shall apply to each type of tax on telecommunications services within a State, but shall not be construed to require that the tax base for

different types of taxes on telecommunications services must be identical to the tax base for sales and use taxes imposed on telecommunications services.

(18) Uniform rules and procedures for ''sales tax holidays''.

(19) Uniform rules and procedures to address refunds and credits for sales taxes relating to customer returns, restocking fees, discounts and coupons, and rules to address allocations of shipping and handling and discounts applied to multiple item and multiple seller orders.

(b) REQUIREMENT TO PROVIDE SIMPLIFIED TAX SYSTEMS.—

(1) IN GENERAL.—The requirements of this section are intended to ensure that each Member State provides and maintains the necessary simplifications to its sales and use tax system to warrant the collection authority granted to it in section 4.

(2) REDUCTION OF ADMINISTRATIVE BURDENS.—The requirements of this section should be construed—

(A) to require each Member State to substantially reduce the administrative burdens associated with sales and use taxes; and

(B) as allowing each Member State to exercise flexibility in how these requirements are satisfied.

(3) EXCEPTION.—In instances where exceptions to the requirements of this section can be exercised in a manner that does not materially increase the administrative burden on a seller obligated to collect or pay the taxes, such exceptions are permissible.

SEC. 7. LIMITATION.

(a) IN GENERAL.—Nothing in this Act shall be construed as—

(1) subjecting a seller to franchise taxes, income taxes, or licensing requirements of a Member State or political subdivision thereof; or

(2) affecting the application of such taxes or requirements or enlarging or reducing the authority of any Member State to impose such taxes or requirements.

(b) NO EFFECT ON NEXUS, ETC.—

(1) IN GENERAL.—No obligation imposed by virtue of the authority granted by section 4 shall be considered in determining whether a seller has a nexus with any Member State for any other tax purpose.

(2) PERMISSIBLE MEMBER STATE AUTHORITY.—Except as provided in subsection (a), and in section 4, nothing in this Act permits or prohibits a Member State from—

(A) licensing or regulating any person;

(B) requiring any person to qualify to transact intrastate business;

(C) subjecting any person to State taxes not related to the sale of goods or services; or

(D) exercising authority over matters of interstate commerce.

SEC. 8. EXPEDITED JUDICIAL REVIEW.

(a) THREE-JUDGE DISTRICT COURT HEARING.—Notwithstanding any other provision of law, any civil action challenging the constitutionality of this Act, or any provision thereof, shall be heard by a district court of three judges convened pursuant to the provisions of section 2284 of title 28, United States Code.

(b) APPELLATE REVIEW.—

(1) IN GENERAL.—Notwithstanding any other provision of law, an interlocutory or final judgment, decree, or order of the court of three judges in an action under subsection (a) holding this Act, or any provision thereof, unconstitutional shall be reviewable as a matter of right by direct appeal to the Supreme Court.

(2) 30-DAY TIME LIMIT.—Any appeal under paragraph (1) shall be filed not more than 30 days after the date of entry of such judgment, decree, or order.

SEC. 9. DEFINITIONS.

For the purposes of this Act the following definitions apply:

(1) AFFILIATE.—The term ''affiliate'' means any entity that controls, is controlled by, or is under common control with a seller.

(2) GOVERNING BOARD.—The term ''Governing Board'' means the governing board established by the Streamlined Sales and Use Tax Agreement.

(3) MEMBER STATE.—The term ''Member State''—

(A) means a Member State as that term is used under the Streamlined Sales and Use Tax Agreement as of the date of enactment of this Act; and

(B) does not include associate members under the Agreement.

(4) NATIONWIDE.—The term ''nationwide'' means throughout each of the several States and the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and any other territory or possession of the United States.

(5) NONDISCRETIONARY DUTY OF THE GOVERNING BOARD.—The phrase ''nondiscretionary duty of the Governing Board'' means any duty of the Governing Board specified in the Agreement as a requirement for action by use of the term ''shall'', ''will'', or ''is required to''.

(6) PERSON.—The term ''person'' means an individual, trust, estate, fiduciary, partnership, corporation, or any other legal entity, and includes a State or local government.

(7) REMOTE SALE.—The term ''remote sale'' refers to a sale of goods or services attributed to a particular Member State with respect to which a seller does not have adequate physical presence to establish nexus under the law existing on the day before the date of enactment of this Act so as to allow such Member State to require, without regard to the authority granted by this Act, the seller to collect and remit sales or use taxes with respect to such sale.

(8) REMOTE SELLER.—The term ''remote seller'' means any seller who makes a remote sale.

(9) STATE.—The term ''State'' means any State of the United States of America and includes the District of Columbia, Puerto Rico, and any other territory or possession of the United States.

(10) STREAMLINED SALES AND USE TAX AGREEMENT.—The term ''Streamlined Sales and Use Tax Agreement'' (or ''the Agreement'') means the multistate agreement with that title adopted on November 12, 2002, as amended through the date of enactment of this Act and unless the context otherwise indicates as further amended from time to time.

(11) TAX ON TELECOMMUNICATIONS SERVICES.—The term ''tax on telecommunications services'' or ''taxes on telecommunication services'' shall encompass the same taxes, charges, or fees as are included in section 116 of title 4, United States Code, except that ''telecommunication services'' shall replace ''mobile telecommunications services'' whenever such term appears.

(12) TELECOMMUNICATIONS SERVICE.—

(A) IN GENERAL.—The term ''telecommunications service'' means the electronic transmission, conveyance, or routing of voice, data, audio, video, or any other information or signals to a point, or between or among points.

(B) INCLUSION.—The term ''telecommunication service''—

(i) includes transmission services in which computer processing applications are used to act on the form, code, or protocol of the content for purposes of transmission, conveyance, or routing without regard to whether such services are referred to as voice over Internet protocol services or are classified by the Federal Communications Commission as enhanced or value added services; and

(ii) does not include the data processing and information services that allow data to be generated, acquired, stored, processed, or retrieved and delivered by an electronic transmission to a purchaser where the primary purpose of such purchaser for the underlying transaction is the processed data or information.

SEC. 10. SENSE OF THE CONGRESS ON DIGITAL GOODS AND SERVICES.

It is the sense of the Congress that each State that is a party to the Agreement should work with other States that are also party to the Agreement to prevent double taxation in situations where a foreign country has imposed a transaction tax on a digital good or service.

By Mr. DORGAN:

S. 2153. A bill to promote simplification and fairness in the administration and colleciton of sales and use taxes; to the Committee on Finance.

Mr. DORGAN. Mr. President, I have been working closely with Senator MIKE ENZI of Wyoming for several years now on Federal legislation that encourages and rewards State and local governments that radically simplify their sales tax systems by granting them authority to require large sellers to collect taxes on remote sales after substantial simplifications are implemented. This year we have delayed reintroducing related legislation that we cosponsored in the last Congress, S. 1736, primarily due to concerns that some parties have raised about the bill's small business exemption language.

After months of negotiation, there's still disagreement among the stakeholders about how the bill should define small remote sellers who would be exempted from the bill's sales tax collection requirements. Regrettably, the small business exemption issues have not been resolved to the satisfaction of all parties and Senator ENZI is re-introducing essentially our same proposal from the 108th Congress as he promised. I certainly respect his right and decision to do so.

However, I have been working on small business language that I think is a fair approach and will greatly improve the odds that this bill will become law.

The bill I am introducing today is identical to the bill that Senator ENZI is introducing today in every respect—except one. Instead of putting a small business exemption in the bill with a specific dollar threshold, my proposal sets up a process that I believe will help us get to the right answer. Under my proposal, the Small Business Administration (SBA) is required, after considering all relevant factors and soliciting input from the Treasury Department, the Streamlined Sales Tax Governing Board and others, to develop a rulemaking and propose to Congress a definition of those small sellers, including small businesses, which would not be required to collect and remit sales and use taxes. My bill provides

for the expedited consideration of SBA's proposal by the U.S. House and Senate and takes steps to ensure that a small sellers' exemption will ultimately be approved by Congress. States would be allowed to require impacted remote sellers to collect sales taxes only after federally mandated simplification is accomplished and a small business exemption is approved by Congress.

All of the other parts of my bill are identical to those included in Senator ENZI's bill. These provisions also deserve our immediate attention. There are over 7,000 tax jurisdictions across the country that rely on sales taxes to fund a range of local activities, from education and fire suppression to police protection and road construction. But billions of dollars in needed sales tax revenues go uncollected year after year in many jurisdictions due to a ruling by the U.S. Supreme Court in 1992 that said current State and local sales tax systems impose an undue burden on sellers without a physical presence in each State.

Internet and catalog sellers have argued that collecting and remitting sales taxes for thousands of different tax authorities is exceedingly complex. This is a legitimate complaint. And I understand why the U.S. Supreme Court in its Quill decision said that States and localities could not require sellers to collect sales tax on remote sales until the States and localities have first dramatically reduced the complexity and burden of collecting sales taxes.

The States and localities have stepped up to the challenge outlined in the Quill decision. For five years now, the States have been working with the retail community and local governments to develop a streamlined and uniform sales tax system agreement that will alleviate the burden of sales tax collection on local retailers and remote sellers.

The Streamlined Sales and Use Tax Agreement, which was approved by 34 States and the District of Columbia in November 2002, requires participating States to comply with dozens of stringent simplification requirements that streamline how State sales and use taxes are identified and collected. By early next year, 19 States will have enacted legislation to bring them into compliance with the Agreement and will be members of its Governing Board.

By harmonizing their State sales and use tax rules, bringing uniformity to definitions in the sales tax base, significantly reducing the paperwork burden on retailers, and incorporating a seamless electronic reporting process, compliance with the Agreement will result in a significantly reduced tax collection burden on all sellers.

As the volume of remote on-line retail sales grow, states are losing more and more sales tax revenues. An estimated $15 billion in sales and use taxes will go uncollected in 2005. This threatens the future ability of states and localities to make critical investments in even the most basic community services, while forcing local retailers who are required to collect sales taxes today to compete with large remote competitors who are not. Senator ENZI and I are determined to address this problem.

I think that the legislation I am introducing today strikes a reasonable balance between the interests of consumers, local retailers, remote sellers and the states. Having said that, I will be working with Senator ENZI early in the next session to see if we can put together a single approach that would address any remaining concerns about the small business exemption and help us move this legislative effort forward in the next session.

We will also have an opportunity to more fully examine some issues raised by the representatives of local governments and some Indian tribes about the impact of our initiative on their constituencies.

By Mr. KERRY (for himself and Mr. ISAKSON):

S. 2155. A bill to provide meaningful civil remedies for victims of the sexual exploitation of children; to the Committee on the Judiciary.

Mr. KERRY. Mr. President, today Senator ISAKSON and I introduce legislation to increase civil penalties for child exploitation. Our legislation is a small piece of a larger battle that we believe will stop would-be child predators and protect our children. Predators like the ones who exploited Masha, a little girl who was featured on Prime Time Live a few weeks ago, and the thousands of other children who are victims of these horrific crimes.

According to the National Center for Missing and Exploited Children, child pornography has become a multi-billion dollar internet business. With the increasingly sophisticated technology of digital media, child pornography has become easier to produce and purchase. Countless people around the world have instant access to pictures and videos posted on the Internet and, unfortunately, millions of these images are pornographic depictions of infants and children. Masha is one of these children, whose images—hundreds of them—are on the Internet and being downloaded around the world. And while the man who sexually abused Masha and posted the pictures on the web is in jail, the damage has been done and will continue until people stop downloading pictures of her off the internet.

Under current law, a victim of child exploitation is entitled to civil statutory damages in U.S. District Court in the amount of $50,000—less than the civil penalty for illegally downloading music off the internet. This penalty is far too low to effectively deter would-be child pornographers. This legislation increases the civil penalties recoverable by victims of child sexual exploitation, including internet child pornography, to at least $150,000. This increased penalty will serve as a deterrent to those who disseminate and possess child pornography, as well as a means of compensating victims of this terrible abuse. If someone downloads a song off the Internet, Federal copyright law provides for statutory damages to be awarded to the copyright holder in the amount of $150,000. Downloading child pornography is far more detrimental to the victim than downloading copyrighted music and, as a result, the penalty should reflect that.

But it is not only the statutory damages that are flawed. The current statute states that ''Any minor who is a victim of a violation [of the act] may sue in United States District Court''. This language has been interpreted literally by a Federal district court to restrict recovery to plaintiffs whose injuries occurred while they were minors. Thus, when victims turn 18 they cannot recover against their perpetrators even if pornographic images of them as children are still distributed via the internet. Our legislation would clarify the statute to include victims of child pornography who are injured as adults by the downloading of their pornographic images.

This bill takes an important step towards ensuring justice for victims of child exploitation. I would urge speedy passage of this legislation as a stand alone bill or encourage its inclusion in a larger child protection package. It is the very least Congress can do for Masha and the thousands of children like her who have suffered at the hands of these criminals. I thank Senator ISAKSON for his co-sponsorship, and I look forward to working with him and all my colleagues to see that it passes the Senate.

PRIVILEGES OF THE FLOOR

Mr. HARKIN. Mr. President, I ask unanimous consent that Dr. Marlene Watson and Dr. Gordon Day, fellows in the office of Senator ROCKEFELLER, be granted the privilege of the floor during the Senate's proceedings today.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRASSLEY. I ask unanimous consent the following Senate Committee on Finance interns and fellows be granted floor privileges during the consideration of the conference report to accompany S. 1932, the Deficit Reduction Act: Melissa Atkinson, Brad Behan, and Amber Mackenzie.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMENDING DR. DOUGLAS HOLTZ-EAKIN

Mr. FRIST. Mr. President, I ask unanimous consent the Senate now proceed to the consideration of S. Res. 341, which was submitted earlier today. I ask the resolution be read.